

**Remarks/Arguments**

**I. Status**

The Office Action dated May 4, 2007 (the “Office Action”), has been carefully reviewed. Claims 1-37 are pending in this application. Claims 4-9, 11-12, 15-30 and 32-37 have been withdrawn from consideration. Claims 1, 10 and 14 have been amended. Reconsideration of this application is respectfully requested.

**II. 35 U.S.C. § 102 Rejection.**

Claims 1-3, 10, 13, 14 and 31 were rejected under 35 U.S.C. § 102 as being anticipated by U.S. Patent No. 6,602,292 to Burkinshaw (hereinafter “Burkinshaw”). Reconsideration of these claims in view of the following remarks is respectfully requested.

*Discussion Re: Patentability of Claim 1*

**1. Claim 1**

Claim 1, as amended, recites:

A patellar prosthesis comprising:  
a first subcomponent;  
a boss operably connected to the first subcomponent; and  
a second subcomponent movably connected to the first subcomponent with the boss, the second subcomponent comprising,  
a first side, the first side having (i) a channel therein, (ii) a boss retaining region operable to retain the boss within the channel when the boss is inserted into the channel by contacting the boss, and (iii) a boss assembly region operable to facilitate the insertion of the boss into the channel.

Claim 1 thus recites a component wherein a boss is used to couple two subcomponents while allowing for movement of the two subcomponents relative to each other.

2. Burkinshaw Does Not Disclose the Limitations of Claim 1

As an initial matter, the Examiner cited to the patella insert 42, the boss 66 and the patella bearing portion 40 of Burkinshaw as disclosing the limitations of claim 1. (Office Action at page 2). Claim 1 has been amended to clarify that in the invention of claim 1, a boss is used to couple two components while allowing for relative motion between the two components. The cited components of Burkinshaw do not disclose such a configuration.

Specifically, at column 4, lines 17-27, Burkinshaw teaches that the “patella bearing portion 40 and patella insert 42 may be securely snapped together.” Thus, when assembled, the patella insert 42 and the patella bearing portion 40 do not move relative to one another. Rather, the tabs 58 within the recessed regions 52 restrict rotation of the patella insert 42 with respect to the patella bearing portion 40 as the hook portions 56 extend over the lips 55 to keep the patella bearing portion 40 mounted on the patella bearing portion 40.<sup>1</sup>

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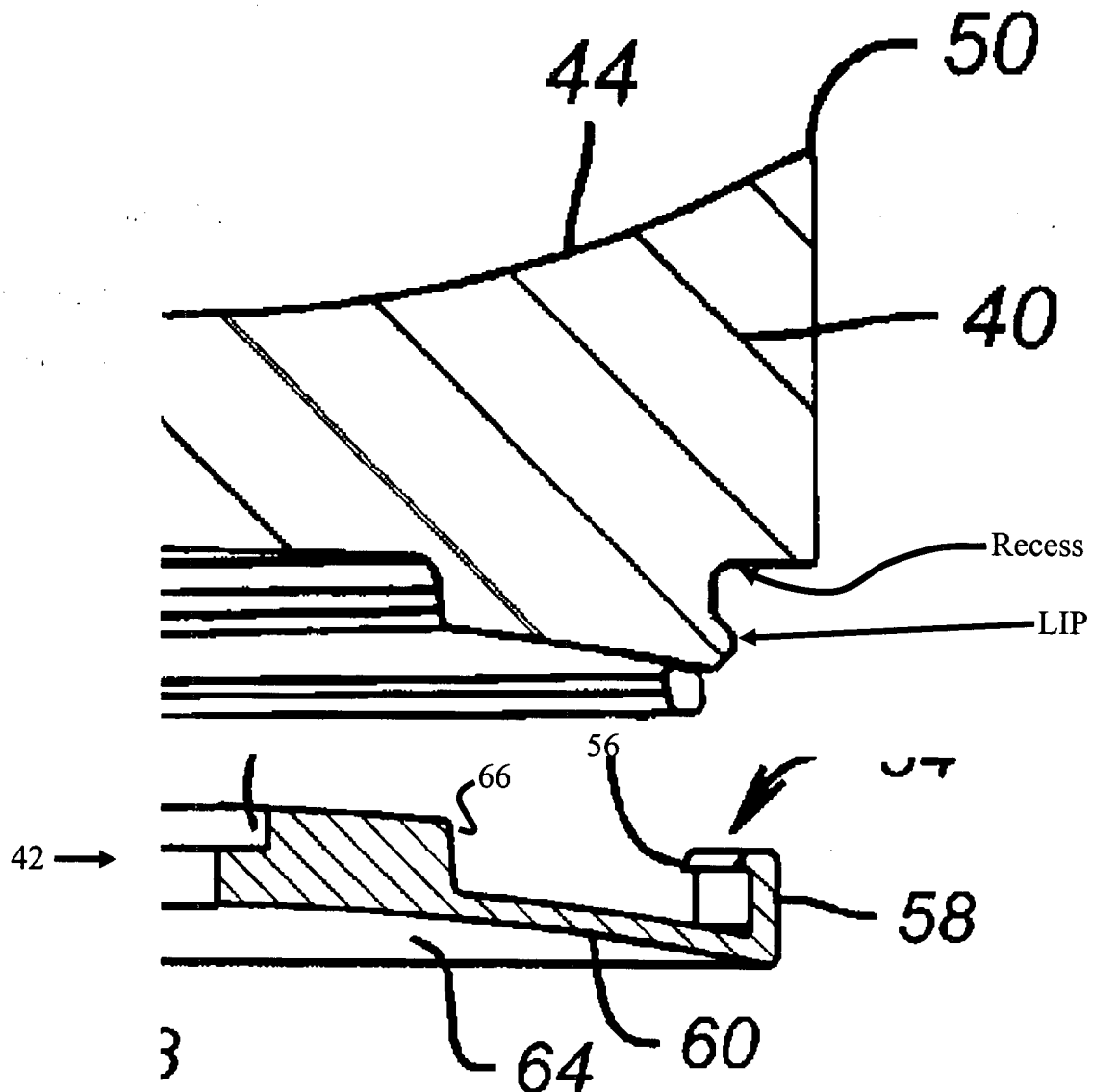
<sup>1</sup> The Applicants were not able to identify a reference number “55” within the drawings. Nonetheless, based upon the description at column 4, lines 17-27, the “lip 55” appears to be the feature identified as a “lip” below.

3. The Patella Bearing Portion is Not a Second Component

Additionally, the Examiner cited to FIG. 3 of Burkinshaw as disclosing the boss retaining area recited in claim 1. Claim 1 has been amended to clarify that the boss retaining area of the second component retains the boss by contacting the boss.

Burkinshaw do not disclose such a configuration

Specifically, portions of FIGs. 3 and 6 of Burkinshaw are set forth below.



As discussed above and as evident by comparison of FIGs. 3 and 4 of Burkinshaw, when configured with the patella bearing portion 40, the patella insert 42 is held in place by the hook portions 56 which extend over the lips 55. The lips do not, however, contact the boss 66.

Therefore, because the only feature of the patella bearing portion 40 that even arguably “retains” the boss 66 does not physically touch the boss 66, the patella bearing portion 40 does not include a “boss retaining portion” as recited in claim 1. Accordingly, the patella bearing portion of Burkinshaw is not a second component as recited in claim 1. Since Burkinshaw does not disclose each and every element of Applicant’s claim 1, Burkinshaw does not anticipate claim 1.

#### 4. Conclusion

For any or all of the foregoing reasons, it is respectfully submitted that the rejection of claim 1 as being anticipated by Burkinshaw has been successfully traversed, and the Applicants respectfully submit that the rejection of claim 1 under 35 U.S.C. § 102 should be withdrawn.

#### *Discussion Re: Patentability of Claims 2-3, 10 13 and 14*

All of claims 2-3, 10, 13 and 14 depend from claim 1, either directly or by way of one or more intermediate claims, and include limitations discussed above with respect to claim 1. Therefore, for at least the same reasons set forth with respect to claim 1, claims 2-3, 10, 13 and 14 are patentable over Burkinshaw.

*Discussion Re: Patentability of Claim 31*

1. Claim 31

Claim 31 recites:

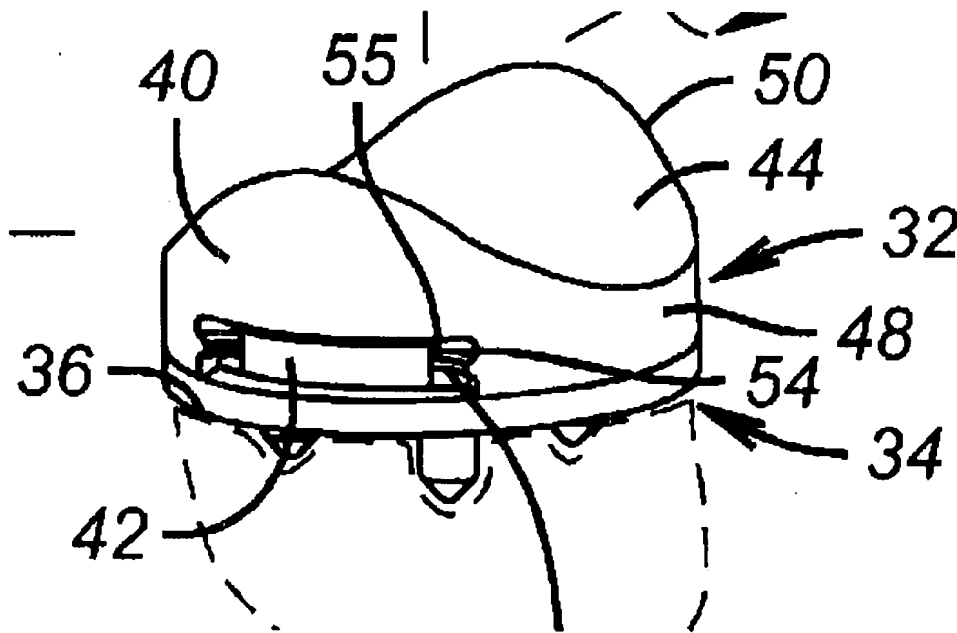
A patellar replacement component base comprising:  
a generally planar bone contacting surface lying in a first plane;  
a dome shaped articulating component contact surface generally opposite the bone contacting surface; and  
a boss having a stem extending from the dome shaped articulating component contact surface along a line, the line of the stem intersecting the bone contacting surface plane at an angle of other than 90 degrees.

Claim 31 thus recites a base component that 1) contacts a bone, and 2) has a domed surface for contacting a second component.

2. Burkinshaw's Patella Insert Does Not Contact a Bone

The Examiner cited to the patella insert 42 as being a flat bone contacting surface. (Office Action at page 4). The patella insert of Burkinshaw does not exhibit the characteristics of the base component of claim 31.

Specifically, claim 31 specifically states that the planar surface is "bone contacting." The patella insert 42 of Burkinshaw does not contact a bone. As shown in FIG. 1, a portion of which is set forth below, the patella insert 42 is sandwiched between the patella bearing portion 40 and the base component 34.



As set forth in Burkinshaw, the three pins at the bottom of the base 34 are inserted into the patellar bone 36 (column 4, lines 51-53). The only other “bone contacting surface” in Burkinshaw is the articulating component 32 which is in sliding contact with the intercondylar groove. (Burkinshaw at column 5, lines 13-17). The portion of the articulating component 32 in contact with the intercondylar groove, however, is the articulation surface 44. (Burkinshaw at column 5, lines 13-17). The articulation surface 44 is not flat.

Therefore, the patella insert 42 is not a flat bone contacting surface as recited in claim 1. Since Burkinshaw does not disclose each and every element of Applicant’s claim 31, Burkinshaw does not anticipate claim 31.

3. The Articulation Surface is Not in Contact with An Articulation Component

Additionally, the Examiner stated that the articulation surface 44 of Burkinshaw was a dome shaped surface as recited in claim 31. (Office Action at page 4).

Respectfully, the articulation surface of Burkinshaw does not exhibit the characteristics of a dome shaped surface set forth in claim 31.

Specifically, the dome shaped surface must be “generally opposite the bone contacting surface.” As noted above, the patella insert 42 does not contact a bone. Thus, the articulation surface 44 lies generally opposite a *non-bone contacting surface*.” A non-bone contacting surface is the opposite of a bone contacting surface. Moreover, the dome shaped component of claim 31 is an “articulating component contact surface.” The articulation surface 44, however, contacts a *bone*. (Burkinshaw at column 5, lines 13-17). In the specification, the word “component” refers to a prosthesis. (See, e.g., page 1, lines 4-6). A bone is not a prosthesis. Therefore, the articulation surface 44 cannot be an articulating component as that term is used in the specification.

Therefore, the articulation surface 44 is not a dome shaped surface as recited in claim 31. Since Burkinshaw does not disclose each and every element of Applicant’s claim 31, Burkinshaw does not anticipate claim 31.

#### 4. Conclusion

For any or all of the foregoing reasons, it is respectfully submitted that the rejection of claim 31 as being anticipated by Burkinshaw has been successfully traversed, and the Applicants respectfully submit that the rejection of claim 31 under 35 U.S.C. § 102 should be withdrawn.

### III. Conclusion

A prompt and favorable action on the merits is respectfully requested.

Respectfully submitted,

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